

Application Serial No. 10/675,498
Reply to office action of September 27, 2006

PATENT
Docket: CU-3333

REMARKS/ARGUMENTS

Claims 1-3, 6, 14 and 15 were provisionally rejected on the grounds of non-statutory double patenting. The Examiner does not consider the pending claims to be patentably distinct from the claims in co-pending applications 10/625,922 in view of pre-grant publication 2003/0167590 by Oh.

In response to the double-patenting rejection of claims 1-3, 6, 14 and 15, the applicant is providing with this response, a Terminal Disclaimer of the claims that issue from the co-pending patent application cited by the Examiner. The Commissioner is hereby authorized to charge the deposit account of Ladas and Parry LLP, i.e., account number 12-0400, any fee required to file the Terminal Disclaimer.

The drawings were objected to as not showing features recited in claim 14. More particularly, the Examiner objected to the figures because they do not show "said main body being provided with a handle" recited in the last line of claim 14.

In response to the Examiner's drawing objection, claim 14 is amended to recite that the main body cover forms an outer surface of the bagless vacuum cleaner. The cover is also recited as providing a handle. Support for this amendment to claim 14 can be found in at least lines 4-5 of page 6 and lines 9 through 16 of page 9 where the specification states that the main body cover 120 of the filter assembly 150 (See FIG. 2.) is shaped and configured for insertion into the filter mounting 101. FIG. 2 and FIG. 13 also show that the main body cover 120 has a handle and show that when the main body cover 120 is fully inserted into the main body 100, the shape of the main body cover 120 conforms to the shape of the main body's exterior surface. Thus, no new matter is added by the amendment to claim 14.

As set forth above, the amendment to claim 14 also recites that the main body cover 120 thereby provides the main body with a handle. Support for this amendment to claim 14 can also be found in the above-identified passages of the specification but also in lines 5-6 of page 13. No new matter is added by the amendment and the Examiner's drawing objection has been overcome.

Claim 16 was objected to because line 2 of the claim was considered by the

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Examiner to contain a typographical error. Claim 16 has been amended per the Examiner's suggestion. The phrase -- and at least on -- has been revised to read: --and at least one --. (Emphasis added here only.)

Claims 1, 14 and 15 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. pre-grant publication 2003/0167590 by Oh.

Claim 1 was also rejected under 35 U.S.C. §102(b) as being anticipated by U.S. patent 6,406,505 to Oh. No other claims were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. patent 6,406,505 to Oh.

Claims 2-3 and 6-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oh '590 in view of U.S. patent number 3,621,640 to Ohno and U.S. patent number 4,426,211 to Ataka et al.

Claims 4-5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oh '590 in view of Ohno, Ataka and pre-grant publication number 2003/0028994 by Kitamura et al.

Claims 8-10 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oh '590 in view of Ohno, Ataka and U.S. patent number 6,618,898 to Tingle and U.S. patent number 6,341,404 to Salo et al.

Claims 11-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Oh '590 in view of Ohno, Ataka and U.S. patent number 6,618,898 to Tingle and U.S. patent number 6,341,404 to Salo et al. and Kitamura et al, i.e., pre-grant publication 2003/0028994.

Claim 16 was rejected under 35 U.S.C. §103(a) as being unpatentable over Oh '590 in view of U.S. patent 6,598,263 to Boles et al.

The Oh '590 reference was the reference on which claims 1, 14 and 15 were rejected. It was also the primary reference upon which every obviousness rejection was based. Thus, if Oh '590 is disqualified as a reference on which to reject the claims, every one of the obviousness rejections must be withdrawn.

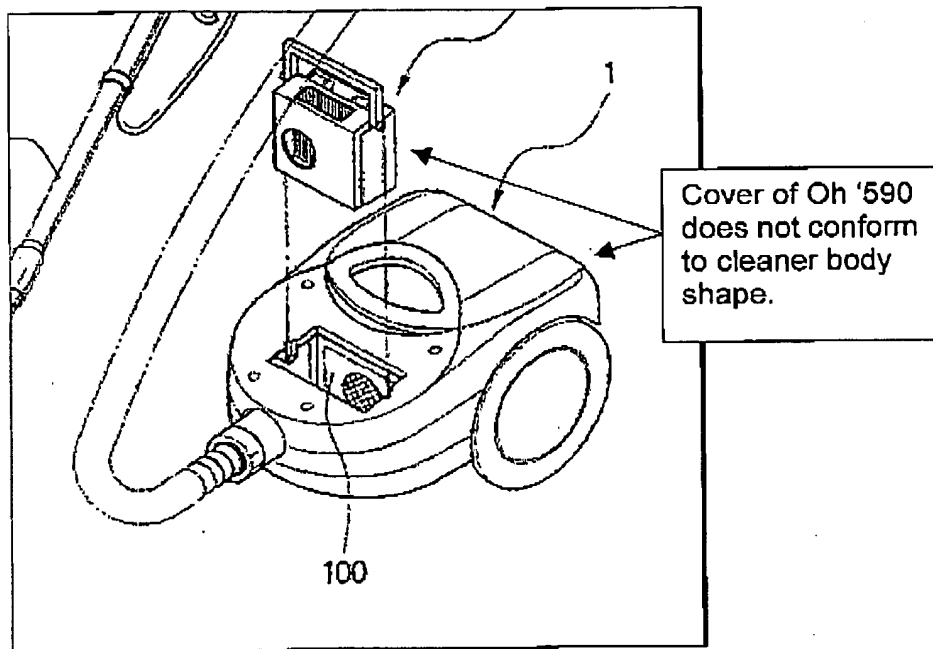
In response to the Examiner's rejections, claims 1 and 14 have been amended to avoid the Oh reference.

In particular, claims 1 and 14 recite that the main body cover forms an outer

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surface of the bagless vacuum cleaner. By amending the claims as such, the claims now recite that the main body cover conforms to the shape of the main body and conforms to the overall appearance of the main body of the cleaner. As can be seen figure inset below, which is copied from the Oh '590 application, the filter cover of Oh '590 does not satisfy the limitations added to claims 1 and 14. Claims 1 and 14, and claim 15, which depends from claim 14, are believed to be allowable over the Oh '590 reference because of the foregoing amendments to claims 1 and 14.



Excerpt from FIG. 3 from Oh '590 application

As set forth above, claim 2 was rejected as being obvious under 35 U.S.C. §103 on the combination of Oh '590, Ohno and Ataka. Under the provisions of 35 U.S.C. §103(c), however, the applicant submits that it was improper for the Examiner to rely on the Oh '590 reference because the pending application and the Oh '590 application were commonly owned when the inventions claimed in the respective applications were made by the respective inventors. The two applications also name different inventive entities.

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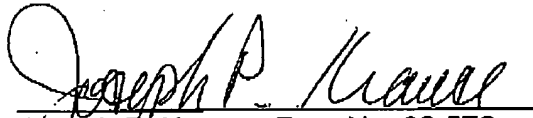
The front page of the Oh '590 reference shows that it is assigned to Samsung Gwangju. The assignment that was filed with the instant application shows that it too was assigned to Samsung Gwangju. Thus, the applications were, and remain, commonly owned when the inventions claimed in each application were invented.

Since this application and the Oh '590 application were commonly owned and since the Oh '590 application was invented "by another," the provisions of 35 U.S.C. §103(c) disqualify Oh '590 as prior art under 35 U.S.C. §103(a). Since the rejections of claims 2-3, 6-7, 4-5, 8-13 and 16 all relied on the Oh '590 reference, which cannot be cited against the claims under §103(a), claims 2-3, 6-7, 4-5, 8-13 and 16 are therefore allowable under 35 U.S.C. §103(a).

For the reasons set forth above, claims 1 -16 are believed to be in condition for allowance. Reconsideration of the pending claims is therefore respectfully requested.

Sincerely,

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